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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KEN WALTERS, JOHN BONILLA, in their
respective capacities as Trustees of the
OPERATING ENGINEERS HEALTH AND
WELFARE TRUST FUND, PENSION
FUND FOR OPERATING ENGINEERS,
PENSIONED OPERATING ENGINEERS
HEALTH AND WELFARE FUND,
OPERATING ENGINEERS VACATION
AND HOLIDAY TRUST FUND,
NORTHERN CALIFORNIA
PREAPPRENTICE, APPRENTICE AND
JOURNEYMAN AFFIRMATIVE ACTION
TRAINING FUND, OPERATING
ENGINEERS CONTRACT
ADMINISTRATION FUND FOR
NORTHERN CALIFORNIA, OPERATING
ENGINEERS INDUSTRY STABILIZATION
TRUST FUND AND OPERATING
ENGINEERS MARKET PRESERVATION
TRUST FUND,

Plaintiffs,

v.

STATEWIDE CONCRETE BARRIER, INC.,
a California corporation; and CHARLES
WELLS, an Individual,

Defendants.

Case No. C-04-2559 JSW (MEJ)

PLAINTIFFS' ~~PROPOSED~~ ORDER
VACATING THE HEARING ON
THE ORDER TO SHOW CAUSE
OF JULY 19, 2006, GRANTING
PLAINTIFFS' MOTION FOR
INJUNCTIVE RELIEF, AND
RESERVING JURISDICTION FOR
AMENDED PLEADINGS AFTER AUDIT

After hearing plaintiffs' motion herein for default judgment, and having issued on
September 20, 2005, its Order Adopting Report And Recommendation Re Plaintiffs' Motion For

Default Judgment, the Court confirms its order granting plaintiffs a mandatory injunction requiring defendants, Statewide Concrete Barrier, Inc., and Charles Wells, to submit to an audit by plaintiffs.


Accordingly, defendants are mandatorily enjoined, directed and required to submit to plaintiffs for audit all books and records in their possession which verify and substantiate contributions paid and contributions due to the plaintiffs for the period January 1, 2001 to the present, including, but not limited to the following records:

California Quarterly Report of Wages, Form DE-6; Federal Tax Forms W-3/W-2 and 1069/1099; Payroll Registers/Journals; Individual Earnings Records; Source Records, including time cards and time card summaries for all employees; contribution reports for all trust funds; workers' compensation reports; certified payroll reports; personnel records indicating job classifications and hire/termination dates; cash disbursement journal; vendor invoices; copies of subcontract agreements; cash receipts journal; general ledger; job cost records; records of related entities; and any other books and records that may be necessary to complete the auditor's determination or provide additional explanation.

The Court vacates the hearing on the Order To Show Cause And Order Continuing Briefing On Motion For Default Judgment, issued July 14, 2006; and, closing its hearing of plaintiffs' motion for default judgment, the Court reserves jurisdiction herein to entertain a motion for amended pleadings after completion of the audit.

IT IS SO ORDERED.

DATED: August 31, 2006


HONORABLE JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE

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PROOF OF SERVICE

CASE NAME: *Ken Walters, et al. v. Statewide Concrete Barrier, Inc., et al.*
CASE NUMBER: United States District Court, Northern District of California
Case No. C04-2559 JSW (MEJ)

I, Peggy Sanchez, declare as follows:

I am a citizen of the United States of America; I am a resident of, or employed in, the City and County of San Francisco, California; I am over the age of eighteen years and not a party to the within cause; my business address is 101 New Montgomery Street, Fifth Floor, San Francisco, California 94105. On the date below, I served the attached

**1) PLAINTIFFS' PROPOSED ORDER VACATING THE
HEARING ON THE ORDER TO SHOW CAUSE OF
JULY 19, 2006, GRANTING PLAINTIFFS' MOTION
FOR INJUNCTIVE RELIEF, AND RESERVING
JURISDICTION FOR AMENDED PLEADINGS
AFTER AUDIT**

on the parties involved addressed as follows:

**Charles Wells, individually,
and as agent for
Statewide Concrete Barrier, Inc.
2358 Longview Drive
San Leandro, California 94577**

**Charles Wells, individually,
and as agent for
Statewide Concrete Barrier, Inc.
4751 Grass Valley Road
Oakland, California 94605**

BY MAIL with postage thereon fully prepaid in the designated area for outgoing mail. I am readily familiar with STANTON, KAY & WATSON LLP's practice of collection and processing correspondence whereby mail is sealed, given the appropriate postage and placed in a designated mail collection area. Each day's mail is collected and deposited with the United States Postal Service after the close of each day's business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

The addresses shown above are the last known mailing addresses for persons known to have contacts with defendant and agent Charles Wells.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on **August 30, 2006**, at San Francisco, California.

/s/ Peggy Sanchez

Peggy Sanchez